

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PINNACLE ENVIRONMENTAL CORPORATION,

Plaintiff,

-v-

VOLMAR CONSTRUCTION, INC. et al.,

Defendants.
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23-CV-10732 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On March 25, 2024, Third-Party Defendant Truist Bank filed a motion to dismiss Volmar Construction Inc.'s ("Volmar") Third-Party Complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a party has twenty-one (21) days after the service of a motion under Rule 12(b) to amend its complaint once as a matter of course.


Accordingly, it is hereby ORDERED that Volmar shall file any amended third-party complaint by **April 15, 2024**. Pursuant to Paragraph 1.B. of the Court's Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>, any amended complaint should be filed with a redline showing all differences between the original and revised filing. Volmar will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Volmar does amend, by three (3) weeks after the amended third-party complaint is filed, Truist Bank shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If Truist files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Truist files a new motion to dismiss or indicates that it relies on its previously filed motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint is filed, Volmar shall file any opposition to the motion to dismiss by **April 15, 2024**. Truist Bank's reply, if any, shall be filed by **April 22, 2024**.

SO ORDERED.

Dated: March 25, 2024
New York, New York


JESSE M. FURMAN
United States District Judge